

BUCHANAN COUNTY REVISED LITTER CONTROL ORDINANCE

UPON PUBLIC HEARING, held on October 01th, 2007 at _____ AM, such public hearing having been advertised once a week for two successive weeks on _____, 2007 and _____, 2007 in the Virginia Mountaineer, a newspaper of general circulation in Buchanan County, Virginia.

NOW THEREFORE, BE IT ORDAINED that the following provision and sections are hereby enacted as the Buchanan County Revised Litter Ordinance, by which term this Ordinance may be cited.

§ 77-1: TITLE: This article shall be known as the Buchanan County Revised Litter Control Ordinance.

§ 77-2: DEFINITIONS: The following terms shall have the meanings ascribed to them in this Section when used in this Ordinance.

ADMINISTRATOR: The Buchanan County Administrator or his or her duly authorized designee.

ASHES: The residue resulting from the burning of wood, coal, coke or other combustible material.

BRUSH: Brushes, briars, branches, leaves and similar material.

BRUSH, PRUNINGS and TREE TRIMMINGS: Trimmings from growing or dead trees or bushes no more the six inches in diameter. Any such trimmings over four inches will not be accepted. These items will only be accepted at the landfill site, free of dirt and debris. This shall include roots or stumps that exceed four inches in diameter, free of dirt and debris.

COMMERCIAL ESTABLISHMENT: A building or other structure and/or lot or tract of land used for or as a part of the operation of a business enterprise, whether for profit or not, which is not used in whole as a residential unit. For the purposes of this ordinance, any structure which is used by the same owner or tenant for both residential and business purposes shall be deemed to be a commercial establishment, provided however, that if the Administrator determines that the mixed use structure generates a volume of solid waste that does not exceed the average amount of waste generated by a residence in Buchanan County, then such mixed use structure may be deemed to be a residential unit.

COMPACTED WASTE: Refuse or waste which has been reduced in volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at the landfill.

CONTAINERS:

1. Solid waste containers for rural areas, commercial establishments or industry are to be four cubic yards' capacity, as furnished by the county, its agency or privately, as approved by the Board of Supervisors of Buchanan County, Virginia.
2. Solid waste containers for door-to-door residential or commercial collection shall be not more than twenty gallons' capacity and constructed of galvanized metal or plastic. They shall be equipped with a close-fitting lid and a handle. Cans must be constructed with no inside baffles to facilitate discharge of solid wastes. Maximum weight of any one container shall not exceed 40 pounds.
3. Non-reusable: Plastic sacks designed for the refuse disposal with sufficient wall strength to maintain physical integrity when lifted by the top; securely tied at the top for collection, with a capacity not to exceed thirty (30) gallons and loaded weight not to exceed thirty-five (35) pounds. Non-reusable containers shall also include garbage compactor bags with meet the capacity and weight requirements for plastic sacks. Both reusable and non-reusable containers shall also be referred to as standard containers in this ordinance.
4. Bulk: Bins of metal construction capable of being emptied by mechanical equipment operated by the County, generally referred to as dumpsters, which have a capacity of at least two and not more than eight cubic yards. Also included are large capacity roll on dumpsters.

CURBSIDE: Curbside shall be deemed to be that portion of the street or highway right of way adjacent to the paved or traveled portion of a primary or secondary roadway as established by the Virginia Department of Transportation or Buchanan County.

CONTRACTOR: The person with whom Buchanan County may contract for the collection of solid waste generated within Buchanan county, however nothing shall be deemed to require the County to contract for collection of all or part of its solid waste. In the event that the County does contract for collection of all or part of its solid waste, then the term "Contractor" shall be substituted for Buchanan County where appropriate in the Ordinance.

CONVENIENCE CENTER: A collection point designated and operated by Buchanan County at which large items, white goods, tires and other wastes not suitable for regular pickup may be deposited.

COUNTY: The term "County" shall be deemed to refer to Buchanan County unless the text of the Ordinance specifically refers to some other county.

DISPOSAL: Includes the storage, collection, disposal or handling of refuse.

GARBAGE: Readily putrescible discarded materials composed of animal, vegetable or other organic matter.

LITTER: Any solid waste that is disposed of as prohibited herein or allowed to be carelessly discarded or scattered about in an unsightly manner. Litter shall include, but not be limited to, garbage, trash, refuse and rubbish and any other solid waste as referred to within this Ordinance.

LITTER BAG: A bag or sack, of durable material, which is large enough to serve as a receptacle for the litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag.

LITTER RECEPTACLE: A container with a capacity of not less than ten gallons constructed of such quality as to maintain the original shape when placed at an outdoor location; reasonably resistant to rust and corrosion; and placed for use as a depository for litter. Appliances (refrigerators, freezers, etc.) cannot be used as litter receptacles.

OPEN DUMP: A site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled, so as to create a nuisance or so as to pose within the determination of the Administrator a substantial present or potential hazard to human health or the environment, including the pollution of air, land, surface water or ground water. A disposal facility operating without all permits required by the state and/or federal governments shall be considered an open dump.

OPERATOR: The person responsible for the overall operation and site management of a solid waste facility.

OWNER: The person, corporation, or other legal entity in whom is vested the title to an interest in the land on which a solid waste management facility is located; the person, corporation or other legal entity in whom is vested title to an interest in the land upon which a residence, residential unit, multi-unit residential unit, commercial establishment or industry is located.

PERMIT: The written permission issued by the state or federal government to own, operate, or construct a solid waste management facility; and any license issued pursuant to the provisions of this ordinance.

PERSON: An individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

RECYCLING: The process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.

REFUSE: Discarded waste materials in a solid or semi-solid state, consisting of garbage, ashes, trash, rubbish, or a combination thereof.

RESIDENTIAL UNIT: A group of rooms located within a building and forming a single inhabitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and/or eating. A residential unit shall also include buildings containing not more than four contiguous single-family dwelling units, however each unit shall be deemed to be a separate dwelling unit for billing purposes. Buildings containing more than four contiguous single-family dwelling units shall be considered commercial customers for the purpose of this Ordinance. The term “residential unit” shall also be deemed to include mobile home parks. If there are more than four units, the mobile home park shall be deemed to be a commercial customer.

SALVAGE: The unauthorized or uncontrolled removal of waste materials from a solid waste management facility.

SCAVENGE: The unauthorized or uncontrolled removal of waste materials from a solid waste management facility.

SLUDGE: Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, coal mining or gas water disposal system, water supply treatment plant, air pollution control facility, or other waste producing facility, but as used in this Ordinance the term does not include the treated effluent from a Wastewater Treatment Plant.

SOLID WASTE: Any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from residential, industrial, commercial, mining and agricultural operations and from community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended.

The solid waste herein defined also may refer to the following further defined types, i.e.:

- A. **Coal Mine Waste:** Any commercial waste, construction/demolition waste, debris waste, inert waste, metals, garbage, mining equipment and/or machinery and any other waste generated prior, during, or after mining activities and which may be disposed of in compliance with the Ordinance and all other applicable state and federal laws and regulations.
- B. **Commercial Waste:** All solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, and shopping centers.

- C. Construction/Demolition Waste: The waste building material, packaging and rubble, resulting from construction, remodeling, repair and demolition operations on pavement, houses, commercial buildings, and other structures.
- D. Debris Waste: Waste resulting from land clearing operations, including but not limited to stumps, wood, brush, leaves, soil and road spoils.
- E. Household Waste: Any waste material, including garbage, trash and refuse normally produced or derived from single and/or multiple residential households and residences. Household wastes do not include sanitary waste in septic tanks (septage).
- F. Hazardous Waste: A solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health, the Collection/Disposal System, or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The foregoing definition is intended to include any waste now or hereafter designated as such by state or federal agencies with jurisdiction and authority to promulgate and enforce rules and regulations for the handling and disposal of hazardous and other waste.
- G. Ignitable Waste:
 - a. Liquids having a flash point of less than 140 degrees Fahrenheit (60 degrees Centigrade).
 - b. Non-liquids liable to cause fires through friction, absorption of moisture, spontaneous chemical change or retained heat, or which are liable, when ignited, to burn so vigorously and persistently as to create a hazard.
 - c. Ignitable compressed gases, and/or oxidizers.
- H. Industrial Waste: Any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by products; inorganic chemicals; iron and steel manufacturing; mining or oil and gas operations; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment.

- I. Inert Waste: Solid waste which is chemically and biologically stable from further degradation and considered to be non-reactive. Inert waste includes rubble, concrete, broken bricks, bricks and blocks.
- J. Infectious Waste: Any solid waste if it is capable of producing an infectious disease in humans; is one of the controlled infectious wastes listed in any relevant section or sections of the Infectious Waste Management regulations of the Virginia Department of Environmental Quality as applicable at any given time, or is identified as infectious by a licensed physician or registered nurse. A waste shall be considered to be capable of producing an infectious disease if it has been, is or may have been contaminated by an organism that is or may be pathogenic to humans and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. If the exact cause of a disease is unknown, but the health care professional in charge suspects the presence of a pathogen in the waste is the cause, such waste shall be managed as if the pathogen were identified and such waste shall be considered to be infectious waste.
- K. Institutional/Government Waste: All solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include infectious waste from health care facilities and research facilities which has not been classified as a hazardous waste by the Virginia Hazardous Waste Regulations or the United States Environmental Protection Agency. Infectious waste which has been defined by state or federal law, rule or regulation as hazardous waste must be excluded from the waste stream.
- L. Putrescible Waste: Solid waste which contains organic material capable of being decomposed by microorganism, and which causes odors.
- M. Residential Waste: Household waste.
- N. Waste Oil: A spent petroleum product or lubricating fluid from vehicles or equipment.

SOLID WASTE MANAGEMENT FACILITY: Any facility which engages in a planned program for effectively controlling the storage, collection, transportation, processing and reuse, conversion or disposal of solid waste in a safe, sanitary, aesthetically acceptable, environmentally sound and economic manner, in full compliance with all applicable local, state and federal regulations. The Buchanan County Transfer Station and Buchanan County Landfill are Solid Waste Management Facilities.

TRASH: Non-combustible discarded materials including, but not limited to, ashes, scrap metal, glass, brick, concrete or other construction materials.

UNCOMPACTED WASTE: Refuse or waste which has not been reduced in volume by mechanical or hydraulic means, or if so, has not been maintained in this reduced volume state during the transportation to the landfill.

WASTE GENERATOR: The person who actually produces waste intended for disposal at the landfill.

WASTE MANAGEMENT FACILITY: (See also Solid Waste Management Facility) That area designated by the County Administrator for the collection of refuse intended for disposal at the landfill or Transfer station.

WHITE GOODS: Refrigerators, freezers, stoves, clothes dryers, washing machines, water heaters, window air conditioners and other large appliances of similar size or character, and waste metal products.

YARD WASTE: Decomposable waste materials generated by yard and lawn care, and include leaves, grass trimmings, brush up to six inches in diameter and shrubs and tree trimmings arising from general landscaping maintenance. This shall not include roots or stumps that exceed four inches in diameter.

Where terms are not defined in the Ordinance and the context or practice requires definition they shall have the meaning specified in Chapter 14 of Title 10.1 of the Code of Virginia, 1950, as amended as/or specified in other relevant statutes, and/or the Solid Waste Management Regulations of the Virginia Department of Environmental Quality, as now or hereafter adopted as are applicable.

In case of conflict, the statutes and regulations applicable to the particular requirement involved shall prevail over those in this Ordinance.

§ 77-3: LITTER

WHEREAS, in order to control the act of littering, it is deemed necessary for Buchanan County, Virginia to impose regulatory action on persons who litter as authorized by Article 3 of Title 10.1 of the Code of Virginia, and Section 33.1-346 of the Code of Virginia;

1. Littering Prohibited; Violations; Penalties.

A. Littering is unlawful in the following areas:

- (1) Roadsides, state, county or dedicated subdivision roads and streets.
- (2) Public property, federal-, state or county owned.

B. Private responsibility. The owner or occupant of any premises within the County of Buchanan shall be responsible for the sanitary conditions of the premises occupied by him. It shall be unlawful for any person to place, deposit or allow to be placed or deposited or allow to accumulate on his premises any solid waste material, except as designated by the terms of this article.

C. No person shall dump or otherwise dispose of trash, garbage, refuse or other unsightly matter upon public property, including a public highway, right-of-way or property adjacent to such public highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.

D. General penalty.

- (1) Any person, firm or corporation violating any provision of this article shall, upon conviction, be punished by a fine of not less than \$25.00 nor more than \$2,500 or by confinement in jail not exceeding 12 months, either or both.
- (2) Each day's continuance of a violation of this article shall constitute a separate offense.
- (3) Enforcement of this article shall be the responsibility of the Buchanan County Litter Officers.
- (4) Complaints regarding collection and disposal of solid waste must be made to the County Administrator, in writing, or made known to the Board of Supervisors.

E. Littering.

- (1) When any person is arrested for a violation of § 76-8C and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of § 46.2-936 of the Code of Virginia in making such arrest.
- (2) When a violation of the provisions of § 76-8C has been observed by any person and the matter illegally dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be inferred to be the person ejecting such matter. However, such inference shall be rebuttable by competent evidence.
- (3) In a prosecution for violation of § 76-8C, evidence that trash, garbage, refuse or other unsightly matter was found upon public property, including a public highway, right-of-way or property adjacent to such

public highway or right-of-way, or on private property or deposited on private property without the written consent of the owner thereof or his agent and that such matter contained articles of mail or other documents on which appears the name and address of a person and that such articles or documents were found distributed throughout such matter shall create an inference that the trash, litter or other matter is the property of the person whose name and address appear on such property of the articles or documents and that such person disposed of the same in violation of this article. However, such inference shall be rebuttable by competent evidence.

- (4) Upon conviction of any person for violation of § 76-8C, the court may suspend the imposition of any sentence on the condition that the defendant volunteers his services for such period of time as the court may designate to remove litter from the highway and public areas.
- (5) This subsection and § 76-8C are adopted pursuant to § 33.1-146 of the Code of Virginia.
- (6) The County's litter control officers and County attorneys, or their duly authorized designees, be and hereby are authorized in accordance with § 15.2-901 and § 10.1-1418.1 of the Code of Virginia, and any other applicable statutes and ordinances, as amended, to bring in behalf of Buchanan County civil actions, including claims for injunctive relief, fines, penalties, court costs and attorney fees, against any person or entity that illegally litters the roadways and streams within Buchanan County or dumps or allows the illegal dumping of trash, debris and wastes within the County boundaries. The proceeds from such civil actions shall be paid to the Treasurer of Buchanan County.

2. Uncovered Vehicles, Escape of Load

- a. No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom; provided, however, that sand or any substance to increase traction or water or other substance may be applied on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.
- b. No person in an aircraft shall throw out, drop or deposit within the County any litter or other object.

- c. Any operator of a vehicle from which an object has escaped, that may cause an obstruction or damage a vehicle or endanger travelers on such public property, shall immediately cause the public property to be cleaned of all objects and shall be responsible for all of the costs of removal.
- d. Any person found guilty of a violation of this section shall be guilty of a Class 2 misdemeanor. Any second or subsequent offense shall constitute a Class 1 misdemeanor.

§ 77-4: Stationary Violations

1. Areas Surrounding Commercial Establishments and Institutions

- a. It shall be the duty of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not limited to, public and private sidewalks, roads, and alleys, grounds, parking lots, loading and unloading areas, and all vacant lots which are owned or leased by said establishment or institution.

2. Keeping Exterior of Residential and Commercial Property Clean

- a. It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. The owner or occupant of any premises within the County shall be responsible for sanitary conditions of such premises, and it shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any solid waste, except as a designated by the terms of this Ordinance. It shall be the duty of each owner and tenant to keep all exterior property free of litter or waste, these areas shall include, but not be limited to: sidewalks, public roads, alleys and driveways; yards and grounds; fences; walls and property lines; drainages and vacant lots in both residential and commercial areas.
- b. Upon violation of this section, the County may proceed against either the tenant, owner or person in control or against all such persons. A warning citation shall be served on the owner or occupant of any premises upon which solid waste is found in violation of this section, giving the owner or occupant ten (10) days to remove such solid waste. If the owner or occupant does not comply with the terms of such citation, he or she shall be served a summons for violation of this section.
- c. This section shall not be deemed to prohibit the accumulation of litter awaiting the next regularly scheduled refuse or garbage collection if such property is served by regularly scheduled garbage, refuse or litter collection. Such collection shall be deemed to be regular if such collection regularly occurs at least once per week or more frequently.

3. Indiscriminate Dumping or Discarding of Litter and Solid Waste

It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any form of solid waste, rubbish, refuse, junk, motor vehicle or vehicle part, rubber tires, appliances, furniture, or any other material or equipment, on public or private property, with or without permission of the property owner, except in County approved receptacles provided for public use for the deposit of said material, or except in an area designated by the State Department of Health as a permitted solid waste disposal site or collection facility.

4. Cleanup of Premises by County Authorization

- a. The owners of property within the County shall, within ten (10) days of receiving written notice from the County, remove from the property any and all trash, garbage, refuse, litter, solid waste of any type and other substances which might endanger the health or safety of other residents of the County.
- b. If, after ten (10) days of receiving the notice, the owners of such property have failed to take action as directed by the notice, the County may have such trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the County, removed by its own agents or employees, in which event the cost or expense thereof shall be chargeable to and paid by the owners and/or tenants of such property and may be collected by the County as taxes are collected.
- c. Execution of the notice to remove litter shall be in writing and shall be in the form of a letter on County letterhead, sent by registered mail and/or delivered by an employee or agent of the County as designated by the Administrator.
- d. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 *et seq.*) and 4 (§ 58.1-3965 *et seq.*) of Chapter 39 of Title 58.1. The County may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

- e. In regard to solid waste consisting of equipment and/or machinery, the owner may request permission from the County to construct a screening type of fence around said equipment and/or machinery, in lieu of removal and disposal of such solid waste.

5. Violations and Penalties

Any violation of section 77-4 shall result in a civil penalty not to exceed \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.00 each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12 month period. In the event that three civil penalties have previously been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts, within a 24 month period, shall constitute a class 3 misdemeanor. Classifying such subsequent violations a criminal offense shall preclude the imposition of civil penalties for the same violation.

§77-5. Providing Adequate Litter Receptacles for Businesses

It shall be the duty of any person owning or operating any commercial establishment to provide receptacles adequate to contain the litter generated at said establishment. The penalty established for violation of this subsection shall be twenty-five (\$25.00) dollars for each day of violation. The offender shall receive a summons from the enforcement officer for any violation of this subsection. The offender may pay the fine in lieu of appearing in court on any first offense.

§77-6. Depositing Improper Waste in Receptacles or Facilities Treated as Litter Violation

- a. It shall be unlawful to improperly dispose of any solid waste as defined in this Ordinance at a facility operated for or in a receptacle placed for public or private use. Improper disposal shall mean and include the depositing in such facility of solid waste which is not accepted or authorized for disposal by such facility. The types of waste not accepted at any such facility shall be displayed at the entrance of such facility or on the receptacle. A violation of this section shall be treated in the same manner as a litter violation pursuant to section 77-3 and be subject to the same criminal or civil penalties.

§77-7: Assign -A - Highway Roadside and Illegal Dump Cleanup

For Cleanup of roadside litter and identified illegal dumps within the County, it is hereby established a program pursuant to Section 53.1-129 of the Code of Virginia, 1950, as amended, and the Sheriff of the County and any of his deputies and any Special Conservator of the Peace/Litter Officer who has been approved by a court of competent jurisdiction shall be permitted to utilize probationers or remove inmates from the County or Regional Jail under their supervision to work in this program providing that any such inmate has been specifically approved to be permitted to participate in this program by the Sheriff and by the Court. Probationers will be assigned to two-mile designated sections of highway, cleaned up every two weeks for the duration of their assignment to this program. Inmates shall be utilized only for the cleanup of illegal dumps identified by the County Litter Control Department. During the cleanup of illegal dumps, the Special Conservator of the Peace/Litter Control Officer or the Sheriff or his deputies will be present during this volunteer work.

§77-8: Construction Or Demolition Sites

- A. It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter before, during, or after completion of any construction or demolition project within the County.
- B. It shall be the duty of the owner, agent, firm or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain all material to prevent scattering. All construction and/or demolition debris shall be removed from such site upon completion of any project, and disposed of at the landfill or Transfer Station, subject to the Buchanan County's tipping fees.
- C. Where any substances, litter, or foreign matter have been tracked or deposited on any street, it shall be promptly removed by the person or persons responsible. The term "responsible person" used in this Section shall mean the driver, his employer, the owner, or the prime contractor in charge of construction or demolition on any property.

- D. Each contractor or owner must have a valid building permit in order to utilize the Transfer Station for the disposal of construction or demolition waste. Each owner or contractor which has a permit must make arrangements with the Buchanan County Building Department to do one of the following: (1) the owner or contractor may contract with a private service to provide a dumpster for the containment and disposal of construction or demolition waste; (2) contractor or owner may contain and dispose of construction or demolition waste pursuant to this Ordinance; or (3) contractor or owner, for a fee, may obtain disposal service and a dumpster from the County.
- E. The Buchanan County Building Inspector shall not issue a building permit to an owner or contractor without evidence that the owner or contractor has a certificate from the Buchanan County Solid Waste Department showing that the owner or contractor has properly provided for the collection and disposal of construction and/or demolition waste.
- F. No occupancy permit shall be issued for any structures by the County Building Inspector unless and until the holder of such permit or his contractor provides satisfactory evidence that all construction debris or waste has been disposed of properly. Any violation of this subsection shall constitute a Class 3 misdemeanor.
- G. Any violation of any provision of this Section shall constitute a Class 3 Misdemeanor. A second or subsequent offense shall constitute a Class 2 Misdemeanor.

§ 77-9: Advertising Materials Or Handbills

It shall be unlawful for any person or organization distributing handbills, leaflets, flyers, or any other advertising or informational materials to distribute material in such a manner that it litters either public or private property within the County, unless said person or organization provides appropriate clean-up of said handbills, leaflets, flyers or other advertising or information materials within 24 hours of distribution. Violation of this section shall be treated as a litter violation of section 77-3 subject to the civil penalties provided for in section 77-3 (E) (6).

§ 77-10: Recycling

This section is intentionally reserved for future provisions as to recycling.

§ 77-11: Inference For Purpose Of Evidence For Unlawful Disposal Of Waste

For the purpose of evidence presented in court upon prosecution or action for violation of any prohibition or requirement of this Ordinance, there shall be a inference that any article of garbage, trash or solid waste bearing a person's printed or written name or address found on the property of another, or on any public property other than a permitted facility, is the property of such person whose name or address appears thereon, and that such person placed or caused to be placed in the location at which found, or failed to properly dispose of the same; provided, however, that such inference may be rebuttable by competent evidence.

§ 77-12: Abandoned Vehicles

A. Definitions:

1. Abandoned Motor Vehicle means a motor vehicle, trailer or semi-trailer or part of a motor vehicle, trailer or semi-trailer that:
 - A. Is inoperative and is left unattended on public property for more than forty-eight (48) hours; or
 - B. Has remained illegally on public property for more than forty-eight (48) hours; or
 - C. Has remained for more than forty-eight (48) hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.

2. Inoperative Motor Vehicle means any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer, scrap processor, repair shop or wrecker service.
3. Shielded or Screened From View means the subject vehicle is not visible by someone standing at ground level from a public road from outside of the property on which it is located because the vehicle is within a fully enclosed building or structure, hidden from sight by a fence, or otherwise obstructed from view.
4. Automobile Graveyard: See Chapter 42 of County Code, § 33.1-348

B. Abandoning Motor Vehicles Prohibited; Penalty

1. No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in Section 77-12(A) of this Ordinance. In any prosecution for a violation of this Section, proof that the defendant was, at the time that the vehicle was found abandoned, the owner of the vehicle shall create a rebuttable presumption that the owner was the person who committed the violation. Such presumption, however, shall not arise if the owner of the vehicle provided notice to the Department of Motor Vehicles (DMV) that he had sold or otherwise transferred the ownership of the vehicle.
2. No person shall maintain an automobile graveyard without having shielded or screened from view said automobile graveyard.
3. A summons for a violation of this Section 77-12(B) shall be executed by mailing a copy of the summons by first-class mail to the address of the owner of the vehicle as shown on the records of the DMV. If the person fails to appear on the date of return set out in the summons, a new summons shall be issued and delivered to the sheriff of Buchanan County for service on the accused personally. If the person so served then fails to

appear on the date of return set out in the summons, proceedings for contempt shall be instituted.

4. If an individual landowner, renter or lessee has more than one abandoned vehicle that is visible from a public road, the landowner, renter or lessee must erect a fence or otherwise shield or screen the vehicle from public view.
5. Notwithstanding the other provisions of this section, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view and being used for the restoration or repair may remain on the property.
6. Any person convicted of a violation of this Section 77-12 shall be subject to a civil penalty of \$100 for the initial summons and not more than \$250 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000. Prosecution of violation of this subsection for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and such pursuit of civil penalty shall preclude the prosecution of a violation as a criminal misdemeanor.

OR COUNTY MAY IMPOSE CRIMINAL PENALTY, BUT NOT BOTH

It shall be unlawful for the owner of any property or any abandoned or inoperative motor vehicle to fail to remove, move to a fully enclosed building or otherwise shield or screen from view an abandoned or inoperative motor vehicle within fifteen (15) days after the date of the notice requesting the owner to do so. Such person shall upon conviction, be guilty of a Class 3 misdemeanor. A second offense shall constitute a class 2 misdemeanor. A third or subsequent offense shall constitute a class 1 misdemeanor.

C. Custody of Abandoned Vehicles

The County Administrator or his or her designee may, when he deems it necessary, give written notice to the owner, renter or lessee of any property, if different from the owner and if known, on which an abandoned or inoperative motor vehicle is located but is not within a fully enclosed building or structure

or is not otherwise shielded or screened from view, or to the owner of such abandoned or inoperative motor vehicle, stating the facts which constitute a violation of this section and directing such person to take such action as may be necessary to rectify the conditions within fifteen (15) days from the date of the notice. The County may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities, firms, or corporations who may be independent contractors for removing, preserving, and storing abandoned or inoperative motor vehicles.

D. Notice to Owner of Vehicle Taken Into Custody

1. When Buchanan County takes an abandoned or inoperative vehicle into custody the Administrator shall, within fifteen (15) days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record, that it has been taken into custody. The notice shall:

- a. State the year, make, model, and serial number of the abandoned motor vehicle.
- b. Set forth the location of the facility where it is being held.
- c. Inform the owner and any persons having security interests of their right to reclaim it within fifteen (15) days after the date of the notice after payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or person having security interests to reclaim the vehicle within the time provided shall constitute:
 - i. A waiver by the owner and all persons having any security interests of all right, title, and interest in the vehicle.
 - ii. Consent to the sale of the abandoned motor vehicle at a public auction.

2. The cost of any such removal and proper disposal shall be chargeable to the owner of the abandoned or inoperative vehicle or premises from which the vehicle was removed and may be collected by the County as taxes and levies are collected, and every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which

the vehicle was removed, the lien to continue until payment of such costs has been made to the County.

3. If records of the DMV contain no address for the owner or no address of any person shown by the DMV's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this Ordinance as to any persons who cannot be notified pursuant to the foregoing provisions of this Section. Notice by publication may contain multiple listings of abandoned motor vehicles. Any notice of this kind shall be within the time requirements prescribed by this Section for notice by mail and shall have the same contents required for a notice by mail.

E. Sale of Vehicle at Public Auction: Disposition of Proceeds

If an abandoned vehicle is not reclaimed as provided for in Section 77-12 (D) of this Ordinance, then Buchanan County or its authorized agent shall sell it at public auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt at the auction, and shall be entitled to apply to and receive from the DMV a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale of an abandoned motor vehicle Buchanan County or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving, and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to Section 77-12 (D) of this Ordinance. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interest may appear, for ninety (90) days, and then be deposited into the Treasury of Buchanan County.

F. Vehicles Abandoned in Garages

1. For the purposes of this Section, "garage" means any commercial parking place, motor vehicle storage facility or establishment for the servicing, repair, maintenance or sale of motor vehicles whether or not the vehicle had been

brought to that location with the consent of the owner or person in control of the premises, and "garage keeper" means the operator of a garage.

2. Any motor vehicle, trailer, semi-trailer, or part thereof shall be considered abandoned and may be reported by the garage keeper to the County if it has been left in a garage for more than ten (10) days or for more than ten (10) days beyond the period the vehicle was to remain on the premises pursuant to a contract, after notice by registered or certified mail, return receipt requested, to the owner of record and all persons having security interests of record therein, to reclaim the vehicle within fifteen (15) days of notice. Any abandoned motor vehicle left in a garage may be taken into custody by the locality in accordance with Section 77-12 (C) of this Ordinance and shall be subject to the notice and sale provisions contained in Section 77-12 (D) of this Ordinance. If, however, the vehicle is reclaimed in accordance with Section 77-12 (D) of this Ordinance, the person reclaiming it, in addition to the other charges required to be paid, shall pay the reasonable charges of the garage keeper, unless otherwise provided by contract or Ordinance. If the vehicle is sold pursuant to Section 77-12 (E) of this Ordinance, any garage keeper's charges shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs incurred to Section 77-12 (D).

G. Vehicles Abandoned on Private Property Other Than Garages

1. Notwithstanding any other provisions of this Ordinance, if an abandoned motor vehicle is left on private property, other than an establishment covered by the provisions of Section 77-12 (F) of this Ordinance, regardless of whether the vehicle had been brought to that location with the consent of the owner or person in control of the private property, the owner or person in control of the private property may send a notice, by registered or certified mail, return receipt requested, to the owner of record of the motor vehicle and all persons having security interests in the vehicle of record in the office of the DMV, describing the motor vehicle by year, make, model, and serial number, and advising that unless the vehicle is reclaimed and removed within thirty (30) days from the date of notice, its owner and all persons having security interests in the vehicle shall have waived all right, title and interest in the vehicle. If the motor vehicle is not reclaimed by its owner or a person having a security interest in the vehicle of record within thirty (30) days from the date of the notice, the owner or person in control of the private property on which the motor vehicle was abandoned may apply to the DMV for a title to such vehicle. On verification that the notice provisions of this Section have been complied with, the DMV shall issue a certificate of title to the vehicle in the name of the person submitting the application. The appropriate forms for use in making application for title to

abandoned motor vehicles pursuant to this Section may be obtained from the office of the County Administrator.

2. The provisions of this Section shall apply only to motor vehicles registered in Virginia. In cases of motor vehicles registered in other states, the DMV shall issue certificates of title to their owners on proof satisfactory to the DMV that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this Section.

H. Disposition of Inoperative Abandoned Vehicles

Notwithstanding any other provisions of this Ordinance, any inoperative motor vehicle, trailer or semi-trailer which has been taken into custody pursuant to other provisions of this Section may be disposed of to a demolisher, without the title and without the notification procedures, by the person or Buchanan County on whose property or in whose possession the motor vehicle, trailer or semi-trailer is found. The demolisher, on taking custody of the inoperative abandoned motor vehicle shall notify the DMV on forms and in the manner prescribed by the DMV. Notwithstanding any other provisions of law, no other report or notice shall be required in this instance.

I. Surrender of Certificate of Title

1. No demolisher who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it is no longer a motor vehicle, the demolisher shall surrender to the DMV for cancellation the certificate of title or sales receipt for the vehicle. The appropriate forms and regulations governing the surrender of sales receipts and certificates of title may be obtained from the office of the County Administrator.
2. Demolishers shall keep accurate and complete records of all motor vehicles purchased or received by them in the course of their business. These records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date on which purchases or receipts occurred. These records shall be open for inspection by the DMV at any time during normal business hours.

J. Sale of Personal Property Found in Abandoned Vehicles

Any personal property found in any unattended or abandoned motor vehicle, trailer or semi-trailer may be sold incident to the sale of the vehicle as authorized in this Section.

K. Leaving Vehicle on Private Property

1. No person shall leave any motor vehicle, trailer, semi-trailer, or part of a motor vehicle, trailer, or semi-trailer on the private property of any other person without his consent. On complaint of the owner of the property on which such motor vehicle, trailer, semi-trailer, or part thereof has been left for more than seventy-two (72) hours, such motor vehicle, trailer, semi-trailer, or part thereof, may be removed by or under the direction of a law enforcement officer to a storage area. The owners of private property which is normally open to the public for parking shall post or cause to be posted signs warning that vehicles left on the property for more than seventy-two (72) hours will be towed or removed at their owners' expense. The person at whose request the vehicle, trailer, or semi-trailer, or part thereof is so removed shall indemnify the County against any loss or expense incurred by reason of removal, storage, or sale thereof.
2. In the case of the removal of a motor vehicle, trailer, semi-trailer or part of a motor vehicle, trailer, or semi-trailer from private property, when it cannot be readily sold, the motor vehicle, trailer, semi-trailer, or part thereof may be disposed of in whatever manner the governing body of the County may provide.

§ 77-13: REMOVAL OR REPAIR OF DANGEROUS STRUCTURES

- A. Owners of property within the county shall, whenever prescribed by resolution of the Board of Supervisors, remove, repair or secure any building, wall or other structure which might endanger the public health or safety or other residents of the county.
- B. The Board of Supervisors, through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county when the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure. For the purposes of this section, reasonable notice shall include a written notice mailed by certified or registered mail, return receipt requested to the last known address of the property owner and published once a week for two successive weeks in a newspaper having general circulation in the

County. No action shall be taken by the County to remove, repair or secure any building, wall or other structure for at least thirty (30) days following the later of the return of the receipt or newspaper publication, except the County may take action to prevent unauthorized access to the building within seven days of such notice the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

- C. If the Board of Supervisors, through its own agents or employees removes, repairs, or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes and levies are collected.
- D. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in articles 3 and 4 of chapter 39 of title 58.1 of the Code of Virginia.
- E. In addition to the remedies set forth above, any owner of such property in violation of paragraphs (a) and (b) herein who fails to take the action required in the notice within the 30 period shall be subject to a civil penalty of \$1,000.00.

§ 77-14: IMPROPER DISPOSAL OF TIRES; EXEMPTION; PENALTY

A. For the purpose of this section:

“Convenience center” means a collection point for the temporary storage of waste tires provided for individuals who choose to transport waste tires generated on their own premises to an estimated centralized point, rather than directly to a disposal facility. To be classified as a convenience center, the collection point shall not receive waste tires from collection vehicles that have collected waste from more than one real property owner. A convenience center shall have a system of regularly scheduled collections and may be covered or uncovered.

“Speculatively accumulated waste tires” means any waste tires that are accumulated before being used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. Waste tires are not being accumulated speculatively when at least 75 percent of the waste tires accumulated are being removed from the site annually.

B. It shall be unlawful for any person to store, dispose of, speculatively accumulate or otherwise place more than 100 waste tires on public or private property, without first having obtained a permit as required by § 10.1-1408.1 or in a manner inconsistent with any other local ordinance. No person shall allow others to store, dispose of, speculatively accumulate or otherwise place on his property more than 100 waste tires, without first having obtained a permit as required by § 10.1-1408.1.

C. Any person who knowingly violates any provision of this section shall be guilty of a Class 1 misdemeanor. However, any person who knowingly violates any provision of this section and such violation involves 500 or more waste tires shall be guilty of a Class 6 felony.

D. Salvage yards licensed by the Department of Motor Vehicles shall be exempt from this section, provided that they are holding fewer than 300 waste tires and that the waste tires do not pose a hazard or a nuisance or present threat to human health and the environment.

E. As used in this section, the terms “store” and “otherwise place” shall not be construed as meaning the holding of fewer than 500 tires for bona fide uses related to the growing, harvesting or processing of agricultural or forest products.

F. The provisions of this section shall not apply to the (i) storage of less than 1,500 waste tires in a container at a convenience center or at a salvage yard licensed by the Department of Motor Vehicles, as long as the tires are not being speculatively accumulated, or (ii) storage of tires for recycling or for processing to use in manufacturing a new product, as long as the tires are not being speculatively accumulated.

G. The provisions of this section shall not apply to the storage of tires for recycling or for processing to use in manufacturing a new product, as long as the tires are not being speculatively accumulated.

H. Nothing in this section shall limit enforcement of the prohibitions against littering and the improper disposal of solid waste contained elsewhere in this chapter.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.

Dated this the _____ day of _____, 2007.

J. Carroll Branham, Chairman of the Buchanan
County, Va. Board of Supervisors

Recorded Vote:

Moved by:_____

Seconded by:_____

Yeas:_____

Nays:_____

ATTEST:

W. J. Caudill, County Administrator